

EXHIBIT H

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Timothy W Fitzgerald
Spokane County Clerk

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

ESTATE OF CLOVY JARAMILLO,
deceased, through Christina Hernandez
as the Administrator of his Estate,

Plaintiff,

vs.

CITY OF SPOKANE, SPOKANE
POLICE DEPARTMENT, SPOKANE
POLICE DEPARTMENT CHIEF
CRAIG MEIDL, individually and in his
professional capacity, SPOKANE
POLICE DEPARTMENT OFFICER
TIMOTHY SCHWERING, individually
and in his professional capacity,
SPOKANE POLICE DEPARTMENT
OFFICER JACKSON HENRY,
individually and in his professional
capacity, SPOKANE PUBLIC
SCHOOLS, individually and in his
professional capacity, SPOKANE
SCHOOL DISTRICT 81 OFFICER
KOREY BJORNSTAD, individually
and in his professional capacity,
Defendants.

Case No. 23-2-04230-32

**COMPLAINT FOR WRONGFUL
DEATH**

COMPLAINT - 1

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COMES NOW, the Estate of Clovy Jaramillo Jr., decedent, through Christina Hernandez as the duly-appointed Administrator of his Estate, by and through their attorney of record, Douglas D. Phelps, Phelps & Associates, P.S., and hereby alleges the following against the above-named Defendants:

I. INTRODUCTION

1.1. The Plaintiff, acting on behalf of the beneficiaries of Clovy Jaramillo Jr., decedent, as well as on behalf of the Estate of Clovy Jaramillo Jr., allege claims and damages against the above-named Defendants for wrongful death; negligence; vicarious liability; excessive force; negligent training and supervision; violations of decedent Mr. Clovy Jaramillo Jr.'s rights as provided for in the United States Constitution and the Washington State Constitution as well as 42 U.S.C. § 1983, and the common law.

1.2. The claims against the Defendants herein named, CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE POLICE DEPARTMENT CHIEF CRAIG MEIDL, SPOKANE POLICE DEPARTMENT OFFICER TIMOTHY SCHWERING, SPOKANE POLICE DEPARTMENT OFFICER JACKSON HENRY, and SPOKANE SCHOOL DISTRICT 81 OFFICER KOREY BJORNSTAD, working for Defendant SPOKANE PUBLIC SCHOOLS as a limited commission officer, treated decedent Clovy Jaramillo Jr. in the last moments of his life with a deliberate disregard for the basic fairness, respect and concern for the safety, health and life of Mr. Clovy Jaramillo Jr. That OFFICER SCHWERING, OFFICER HENRY, and OFFICER BJORNSTAD acted with excessive force in apprehending and arresting Mr. Clovy Jaramillo Jr., ignored all the signs of excited delirium,

1 acting against Spokane Police Department policy on interacting with individuals suffering
2 from excited delirium, administering a sedative without medical personnell against Spokane
3 Police Department policy, deprived Mr. Clovy Jaramillo Jr., decedent, of his substantive due
4 process right to bodily integrity under the Fourteenth Amendment to the United States
5 Constitution; and as a result of the actions and inactions of these Defendants did in fact cause Mr.
6 Clovy Jaramillo Jr. to suffer an excruciating and painful death.

7 II. PARTIES

8 2.1. As a result of the negligence of the defendants, Mr. Clovy Jaramillo Jr. died. This
9 action is commenced by his Estate, through the Estate's Administrator Christina Hernandez, who
10 was appointed by order of the court in Spokane County, Superior Court Cause No. 23-4-00361-
11 32, on behalf of the Estate and the Estate's statutory beneficiaries for the survival claims and
12 wrongful death of Clovy Jaramillo Jr. pursuant to RCW 4.20, *et seq.*, 42 U.S.C. § 1983, the United
13 States Constitution, the Washington State Constitution and the common law.

14 2.2. At all times material hereto, Christina Hernandez is the surviving mother of the
15 deceased and Jasmine Jaramillo is the sister of the deceased.

16 2.3. An action for wrongful death is properly brought when the Administrator of the
17 Estate prosecutes and commences the action under RCW 4.20.060.

18 2.4. The CITY OF SPOKANE is a governmental entity organized under the laws of
19 the State of Washington.

20 2.5. SPOKANE PUBLIC SCHOOLS is a governmental entity organized under the
21 laws of the State of Washington.

1 2.6. OFFICER TIMOTHY SCHWERING and OFFICER JACKSON HENRY was at
2 all times material hereto an employee of the City of Spokane, working as a police officer for the
3 SPOKANE POLICE DEPARTMENT and is believed to have been residents of Spokane County.

4 2.7. OFFICER JACKSON HENRY was at all times material hereto an employee of
5 the City of Spokane, working as a police officer for the SPOKANE POLICE DEPARTMENT
6 and is believed to have been a resident of Spokane County.

7 2.8. OFFICER KOREY BJORNSTAD was at all times material hereto an employee
8 of SPOKANE PUBLIC SCHOOLS, working as a limited commission school resource officer
9 and is believed to have been a resident of Spokane County.

10 2.9. CHIEF CRAIG MEIDL was at all times material hereto the elected Chief of
11 Spokane Police Department, responsible for police operations and procedures.

12 **III. JURISDICTION & VENUE**

13 3.1. This court has original jurisdiction over Plaintiff's wrongful death claim brought
14 under Washington's Wrongful Death Statute, RCW 4.20.

15 3.2. This court has original jurisdiction over Plaintiff's negligence claims brought
16 under Washington's General and Special Survival Statutes, RCW 4.20.046 and RCW 4.20.060.

17 3.3. This court has concurrent jurisdiction over Plaintiff's civil rights claims brought
18 under 42 U.S.C. § 1983 under the Supremacy Clause. *Haywood v. Drown, et al.*, 556 U.S. 729
19 (2009).

20 3.4. Venue for Plaintiff's claims are proper in the Superior Court for the State of
21 Washington, in and for the County of Spokane, pursuant to RCW 36.01.050, as all actions against
22

1 a county may be commenced in the superior court of such county or in the superior court of either
2 of the two nearest judicial districts.

3 **IV. CAUSE OF ACTION FOR NEGLIGENCE PURSUANT TO THE GENERAL**
4 **AND/OR SPECIAL SURVIVAL STATUTES (RCW 4.20.046 and 4.20.060)**

5 4.1. On or about October 6, 2020 around 3:20 pm, Spokane County 911 Dispatch
6 received multiple citizen telephone calls regarding an adult male acting strangely in the area
7 of Third Avenue and Thor Street. The phone calls reported a male laying prone on the street
8 and writhing before getting up and throwing himself in front of cars, denting cars from the
9 force of hitting them, that callers were concerned about a potential drug overdose, and that
10 callers observed him attempting to break windows of cars. One caller observed the male diving
11 headfirst underneath and in front of a vehicle tire. Another call reported that the man ran across
12 the street and ran into the side of her truck before the man climbed on top of another vehicle
13 and was dragged off and pinned to the ground by several people.

14 4.2. Spokane County Dispatch dispatched Spokane Police Department OFFICERS
15 TIMOTHY SCHWERING and JACKSON HENRY to the Mobile Gas Station on the
16 intersection of Third Avenue and Thor Street around 3:33 p.m. on October 6, 2020.

17 4.3. When OFFICER SCHWERING and OFFICER HENRY arrived on scene, Mr.
18 Jaramillo was pinned to the ground by a male and a female citizen. Mr. Jaramillo was laying
19 face-down prone on the pavement. One citizen was positioned such that his knee was placed
20 on Mr. Jaramillo's back.

21 4.4. OFFICER SCHWERING noted that Mr. Jaramillo was sweating profusely and
22 did not appear to be lucid.

1 4.5. OFFICER HENRY noted that Mr. Jaramillo was tensing his muscles and not
2 complying with verbal orders but did not note any combative or aggressive behaviors.

3 4.6. OFFICER SCHWERING and OFFICER HENRY attempted to place Mr.
4 Jaramillo under arrest.

5 4.7. While OFFICER SCHWERING and OFFICER HENRY attempted to place Mr.
6 Jaramillo under arrest, Mr. Jaramillo kicked his legs and screamed but did not act violently
7 towards the officers or behave in a manner to place them in any apprehension of being harmed.

8 4.8. OFFICER SCHWERING noted that Mr. Jaramillo had unexpected strength
9 during the encounter and was periodically vomiting bile.

10 4.9. OFFICER SCHWERING and OFFICER HENRY used arrest tactics up to and
11 including the use of a vascular neck restraint.

12 4.10. While OFFICER SCHWERING and OFFICER HENRY were violently
13 detaining Mr. Jaramillo, SPOKANE SCHOOL DISTRICT 81 OFFICER KOREY
14 BJORNSTAD, a limited commission school resource officer, drove to the scene to assist the
15 officers after hearing that the officers were “actively fighting” with Mr. Jaramillo.

16 4.11. OFFICER BJORNSTAD arrived on scene when OFFICERS SCHWERING
17 and HENRY had one handcuff in place. OFFICER BJORNSTAD closed the second handcuff.

18 4.12. OFFICER SCHWERING told the other officers to roll Mr. Jaramillo to his side
19 into the recovery position to remove Mr. Jaramillo’s backpack. OFFICER BJORNSTAD
20 crossed Mr. Jaramillo’s legs and placed his body over them.

21 4.13. OFFICER HENRY did not turn on his body camera until this point.

1 4.14. A witness observed OFFICERS SCHWERING, HENRY, AND BJORNSTAD
2 administer a shot to Mr. Jaramillo after hearing the officers discuss using a sedative. Another
3 witness was told by the Officers that they gave him a sedative.

4 4.15. After Mr. Jaramillo was handcuffed, he vomited profusely and appeared to have
5 a seizure. OFFICER SCHWERING was concerned that Mr. Jaramillo would injure himself.
6 Mr. Jaramillo continued to vomit and began to slam his head into the pavement.

7 4.16. OFFICER SCHWERING believed that there was a basis to take Mr. Jaramillo
8 into custody via the Involuntary Treatment Act.

9 4.17. OFFICER BJORNSTAD reported that Mr. Jaramillo was unconscious and his
10 eyes were wide open before medical personnel arrived.

11 4.18. OFFICER SCHWERING reported that Mr. Jaramillo was conscious and
12 combative and vomiting bile from both his nose and mouth before medical personnell arrived.
13 OFFICER SCHWERING reported that Mr. Jaramillo did not lose consciousness until after
14 medical personnel requested that Mr. Jaramillo was moved to his back.

15 4.19. Spokane Fire Department, the responding medical agency, arrived on scene
16 around 3:42 p.m. and put defibrillation pads on Mr. Jaramillo's chest and commenced CPR.

17 4.20. The Officers advised AMR that they did not give Mr. Jaramillo anything, not
18 even NARCAN.

19 4.21. Mr. Jaramillo was transported to Sacred Heart Medical Center in critical
20 condition. He was unconscious, intubated, and ultimately treated for excited delirium.

1 4.22. Mr. Jaramillo passed away. The autopsy, conducted two weeks after hospital
2 admission, attributed his cause of death to cardiopulmonary arrest due to excited-agitated
3 delirium and that prone restraint during the legal intervention contributed to his death. The
4 autopsy ultimately concluded that the manner of death was homicide.

5 4.23. Mr. Jaramillo was killed as a result of the defendants' failure to call for medical
6 assistance, in compliance with the Spokane Police Department's policies regarding excited
7 delirium, and as a result of the Officers' administration of a sedative despite a lack of medical
8 training.

9 4.24. The defendants, including those individually named, acted with deliberate
10 indifference to deprive Mr. Jaramillo of his constitutional rights by their actions, knowingly
11 and willfully using excessive force to arrest Mr. Jaramillo and administering a sedative without
12 training.

13 4.25. The SPOKANE POLICE DEPARTMENT and CHIEF CRAIG MEIDL failed
14 in their responsibilities to train and supervise officers in how to respond to individuals
15 experiencing excited delirium according to standards set by the Spokane Police Department
16 policies, applicable state and federal law and/or federal standards.

17 4.26. Defendants OFFICER SCHWERING, OFFICER HENRY, OFFICER
18 BJORNSTAD, SPOKANE POLICE DEPARTMENT, and CHIEF MEIDL had a duty in any
19 activity actually undertaken by them to exercise, for the safety of others including Mr. Clovy
20 Jaramillo Jr., a level of care that would be ordinarily exercised by a reasonable, prudent and
21 qualified police officer in light of the nature of the circumstances at the time.

1 4.27. Defendant CHIEF CRAIG MEIDL, as the police chief of the City of Spokane
2 and the individual responsible for OFFICER SCHWERING and OFFICER HENRY, had a
3 duty to properly screen, hire, train, monitor, supervise or discipline subordinate employees,
4 agents and contractors as part of his duties.

5 4.28. OFFICERS SCHWERING, HENRY, AND BJORNSTAD breached their
6 duties by failing to follow appropriate procedures and by administering a sedative,
7 unnecessarily creating a dangerous situation that would not otherwise have existed had he
8 followed the standard of care exercised by reasonable police officers, thereby precipitating the
9 unnecessary and unreasonably violent death of Mr. Clovy Jaramillo Jr. By their acts and
10 omissions as set forth above and herein, OFFICERS SCHWERING, BJORNSTAD, AND
11 HENRY caused personal injury and bodily injury to Mr. Clovy Jaramilo resulting from
12 negligence, excessive force, or deprivation of rights, privileges or immunities secured by the
13 constitutions and laws of the United States and the State of Washington, as well as caused the
14 wrongful death of Mr. Jaramillo.

15 4.29. The defendants breached their duty to act carefully and reasonably by, among
16 other things, immediately calling for emergency aid when confronted with a clear case of
17 excited delirium, administering a sedative, and failing to inform AMR that they administered
18 a sedative.

19 4.30. The defendants' actions and/or omissions were the direct and proximate cause
20 of the injuries and damages to the Estate of Clovy Jaramillo Jr. as set forth herein.

1 4.31. As a result of the defendants' actions and/or omissions, Mr. Clovy Jaramillo Jr.
2 suffered pre-death injuries and damages including death, and the Estate of Clovy Jaramillo Jr.
3 was injured and suffered damages, including but without limitation economic damages, loss of
4 income, medical expense and noneconomic damage.

5 4.32. The CITY OF SPOKANE was the governmental entity that had immediate
6 supervisory responsibility over the actions of OFFICER SCHWERING and OFFICER
7 HENRY. Defendant CITY OF SPOKANE had a duty to supervise employees and agents of
8 CHIEF CRAIG MEIDL to ensure they did not act negligently.

9 4.33. SPOKANE PUBLIC SCHOOLS was the governmental entity that had
10 immediate supervisory responsibility over the actions of OFFICER BJORNSTAD. Defendant
11 SPOKANE PUBLIC SCHOOLS had a duty to supervise its employees and agents to ensure
12 they did not act negligently.

13 4.34. Defendant CITY OF SPOKANE is jointly and severally liable for all injuries
14 or damages caused by the negligence of any of its employees and agents under the doctrine of
15 *respondeat superior* and vicarious liability.

16 **V. CAUSE OF ACTION FOR WRONGFUL DEATH**

17 Plaintiff re-alleges and incorporates Paragraph 4.1 to 4.34 as Paragraphs 5.1 to 5.34.

18 5.35 The Administrator of the Estate of Clovy Jaramillo Jr., deceased, on behalf of
19 the secondary beneficiaries of Mr. Clovy Jaramillo Jr., deceased, including his mother
20 Christina Hernanzes and his sister, Jasmine Jaramillo, bring an action against the above-named
21 Defendants CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE

1 PUBLIC SCHOOLS, OFFICER TIMOTHY SCHWERING, OFFICER JACKSON HENRY,
2 and OFFICER KOREY BJORNSTAD, for the wrongful death of Clovy Jaramillo Jr.

3 5.36 The wrongful death of Clovy Jaramillo Jr. was proximately caused by the
4 negligent, grossly negligent and/or reckless actions or inactions of the named Defendants CITY
5 OF SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE PUBLIC SCHOOLS,
6 OFFICER TIMOTHY SCHWERING, OFFICER JACKSON HENRY, and OFFICER
7 KOREY BJORNSTAD.

8 5.37 The beneficiaries sustained damages including actual pecuniary loss, including
9 the conscious pain, suffering, anxiety and fear of impending death experienced by the
10 decedent, loss of decedent's support, services, love, affection, care, companionship, society
11 and consortium in such amounts as will be proven at the time of trial together with interest
12 thereon at the statutory rate from the date of death.

13 **VI. CAUSE OF ACTION FOR CIVIL RIGHTS VIOLATIONS PURSUANT TO 42**
14 **U.S.C. 1983**

15 Plaintiff re-alleges and incorporates Paragraph 4.1 to 4.34 as Paragraphs 6.1 to 6.34.

16 6.35. Mr. Clovy Jaramillo Jr. had a right to bodily integrity under the Fourteenth
17 Amendment to the United States Constitution.

18 6.36. Defendants OFFICER SCHWERING, OFFICER HENRY, and OFFICER
19 BJORNSTAD deprived Mr. Clovy Jaramillo Jr. of his substantive due process right to bodily
20 integrity under the Fourteenth Amendment to the United States Constitution.

21 6.37. Defendants OFFICER SHWERING, OFFICER HENRY, and OFFICER
22 BJORNSTAD acted with excessive force in apprehending Mr. Clovy Jaramillo Jr., acted

1 negligently in failing to follow the Spokane Police Department policies on excited delirium,
2 and acted beyond the scope of their authority in administering a sedative and failing to tell
3 AMR about the sedative.

4 6.38. In doing so, Defendants OFFICER SCHWERING, OFFICER HENRY, and
5 OFFICER BJORNSTAD created a substantial risk that Mr. Clovy Jaramillo Jr. would die
6 because AMR was not informed of the use of the sedative. The Defendant OFFICERS created
7 a substantial risk of serious harm and death in the manner they apprehended Mr. Jaramillo and
8 the excessive force used.

9 6.39. Defendants OFFICER SCHWERING, OFFICER HENRY, and OFFICER
10 BJORNSTAD deprived Mr. John Lew Brown of his Fourteenth Amendment right to
11 substantive due process by consciously disregarding the risk to Mr. Jaramillo.

12 6.40. As state actors, Defendants OFFICER SCHWERING, OFFICER HENRY, and
13 OFFICER BJORNSTAD carried out, in an impermissible manner, the functions assigned to
14 them by the CITY OF SPOKANE.

15 6.41. Defendants OFFICER SCHWERING, OFFICER HENRY, and OFFICER
16 BJORNSTAD engaged in actions and omissions which were egregious, outrageous, or fraught
17 with unreasonable risk.

18 6.42. The conduct of Defendants OFFICER SCHWERING, OFFICER HENRY, and
19 OFFICER BJORNSTAD shock the conscience.

1 6.43. The conduct of Defendants OFFICER SCHWERING, OFFICER HENRY, and
2 OFFICER BJORNSTAD was the direct and proximate cause of Mr. Jaramillo's injuries,
3 resulting death and damages.

4 6.44. The conduct of Defendants OFFICER SCHWERING, OFFICER HENRY, and
5 OFFICER BJORNSTAD was intentional, reckless, willful, and done with callous disregard for
6 Mr. Jaramillo's constitutional rights. As such, Plaintiff is entitled to recover awards of punitive
7 and exemplary damages against Defendants OFFICER SCHWERING, OFFICER HENRY,
8 and OFFICER BJORNSTAD in an amount to be determined at trial.

9 6.45. The constitutional rights of Mr. Clovy Jaramillo Jr. violated by Defendants
10 OFFICER SCHWERING, OFFICER HENRY, and OFFICER BJORNSTAD were clearly
11 established on October 6, 2020, and any reasonable emergency police officer would have been
12 aware that the conduct described herein would violate Mr. Clovy Jaramillo Jr.'s constitutional
13 rights.

14 6.46. Defendants CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT and
15 CHIEF CRAIG MEIDL had a duty as the supervisors of Defendants OFFICER SCHWERING,
16 OFFICER HENRY, and OFFICER BJORNSTAD to exercise due care in the supervision of
17 subordinate employees working in the Spokane Police Department. In addition, Defendant
18 CHIEF CRAIG MEIDL had a duty to properly screen, hire, train, monitor, supervise and/or
19 discipline subordinate employees employed by Defendant CITY OF SPOKANE. Defendant
20 CHIEF CRAIG MEIDL had a further duty to ensure that subordinate employees of SPOKANE
21 POLICE DEPARTMENT were aware of and guided by appropriate policies and procedures

1 so as to respect the constitutional rights of citizens and avoid causing unnecessary harm to
2 citizens suffering from excited delirium, including Mr. Clovy Jaramillo.

3 6.47. That prior to October 6, 2020, Defendant CHIEF CRAIG MEIDL knew or
4 reasonably should have known that subordinate dispatch officers employed by CITY OF
5 SPOKANE were acting improperly and violating citizens' constitutional rights, and that, due to a
6 lack of supervision, training, and proper hiring, citizens suffering from excited delirium, such as
7 Mr. Clovy Jaramillo Jr. would have their rights violated by police officers. Defendant CHIEF
8 CRAIG MEIDL knew or reasonably should have known that certain police officers, including
9 Defendants OFFICER SCHWERING, OFFICER HENRY, and OFFICER BJORNSTAD,
10 should not have been hired, should not have been retained, lacked adequate training and
11 certification, were operating without knowledge of or in flagrant disregard for departmental
12 policies, procedures and protocols in connection with their duties as police officers. Defendant
13 CHIEF CRAIG MEIDL failed to conduct an appropriate internal affairs investigation into the
14 incident resulting in injury and death to Mr. John Lew Brown, and took no disciplinary action
15 against Defendants OFFICER SCHWERING, OFFICER HENRY, and OFFICER
16 BJORNSTAD related to this incident. By doing so, Defendant CHIEF CRAIG MEIDL
17 encouraged, condoned, and ratified the wrongful acts of Defendants OFFICER SCHWERING,
18 OFFICER HENRY, and OFFICER BJORNSTAD.

19 6.48. Defendant CHIEF CRAIG MEIDL and the SPOKANE POLICE
20 DEPARTMENT breached the foregoing duties by failing to adopt proper policies, procedures and
21 protocols, by failing to implement appropriate training, by failing to adequately investigate and
22 discipline the subordinate dispatch officers involved in this incident, by failing to conduct

1 mandatory post-incident investigations, and by failing to take other appropriate supervisory actions
2 which would have prevented the deprivation of the clearly established constitutional rights of Mr.
3 Clovy Jaramillo Jr.

4 6.49. Defendant CRAIG MEIDL's actions, or failures to act, described above,
5 constituted personal involvement by him in violating Mr. Clovy Jaramillo Jr.'s constitutional rights
6 and causing the injuries and damages described herein. In so doing, Defendant CRAIG MEIDL
7 acted knowingly or with deliberate indifference to the possibility that a constitutional violation
8 would occur.

9 6.50. Defendant CHIEF CRAIG MEIDL'S acts and omissions, as described herein,
10 were the direct and proximate cause of Mr. Clovy Jaramillo's injuries and subsequent death and
11 related damages, as set forth herein.

12 **VII. CAUSE OF ACTION FOR NEGLIGENT TRAINING, RETENTION AND**
13 **SUPERVISION**

14 Plaintiff re-alleges and incorporates Paragraph 4.1 to 4.34 as Paragraphs 7.1 to 7.34.

15 7.35. Defendants SPOKANE POLICE DEPARTMENT, CITY OF SPOKANE,
16 CHIEF CRAIG MEIDL, and SPOKANE PUBLIC SCHOOLS, are liable for the actions of
17 their employees for failing to train said employees in procedures involving dispatch
18 procedures.

19 7.36. SPOKANE POLICE DEPARTMENT, CITY OF SPOKANE, CHIEF CRAIG
20 MEIDLE, and SPOKANE PUBLIC SCHOOLS have failed to provide sufficient training to
21 their officers to ensure negligent actions such as the acts by OFFICER SCHWERING,
22

1 OFFICER HENRY, and OFFICER BJORNSTAD's do not cause death or serious injury to
2 individuals facing serious medical emergencies, like excited delirium.

3 7.37. That as a result of the actions or inactions of the employees of CITY OF
4 SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE PUBLIC SCHOOLS, and
5 CHIEF CRAIG MEIDL, Clovy Jaramillo Jr. suffered and his Estate continues to suffer injury.

6 7.38. That CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE
7 PUBLIC SCHOOLS, and CHIEF CRAIG MEIDL failed to adequately and fully train their
8 police officers, resulting in the death of Clovy Jaramillo Jr. and continuing injury to his Estate.

9 7.39. That as a result of the negligent training and policies, Clovy Jaramillo Jr. died
10 and his Estate continues to suffer injury.

11 7.40. That Defendants CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT,
12 SPOKANE PUBLIC SCHOOLS, and CHIEF CRAIG MEIDL, are liable for the actions of
13 their employees for failing to supervise said employees in procedures interactions with citizens
14 suffering from excited delirium, which resulted in the death of Clovy Jaramillo Jr.

15 7.41. That as a result of the actions or inactions of the employees of CITY OF
16 SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE PUBLIC SCHOOLS, and
17 CHIEF CRAIG MEIDL, Clovy Jaramillo Jr. died and his Estate continues to suffer injury.

18 7.42. The CITY OF SPOKANE, SPOKANE POLICE DEPARTMENT, SPOKANE
19 PUBLIC SCHOOLS, and CHIEF CRAIG MEIDL were negligent in their supervision and
20 training of OFFICER SCHWERING, OFFICER HENRY, and OFFICER BJORNSTAD.

VIII. REQUEST FOR TRIAL BY JURY

Plaintiff re-alleges and incorporates Paragraph 4.1 to 4.34 as Paragraphs 8.1 to 8.34.

8.35. The Plaintiff requests on all issues so triable a trial by jury constituting of twelve (12) persons.

IX. DAMAGES

Plaintiff re-alleges and incorporates Paragraph 4.1 to 4.34 as Paragraphs 9.1 to 9.34.

9.35. The Defendants' actions and inactions were the sole and proximate cause of the injuries and eventual death of Mr. Jaramillo, and as a result of the negligence, violations of Mr. Jaramillo's civil rights, and wrongful death, Mr. Jaramillo and his Estate incurred damages as a result, to be proven at trial in this matter.

9.36. The Defendants' actions were willful, wanton, knowing and voluntary, ignoring established law, training, standards, policies, procedures and precedents.

9.37. The Defendants' actions and inactions shock the conscience.

9.38. The value of The Estate's claim against these defendants exceeds \$950,000.00, or an amount to be determined at the time of trial which includes amounts for general damages. In addition, the Plaintiff will seek against the named defendants punitive and exemplary damages as well as an award of attorney fees and costs.

9.39. The Defendants have been served with a Claim for Damages as required by the RCW 4.96, *et seq.*, and have failed, refused and/or denied settling these claims with the Plaintiff.

1 9.40. The CITY OF SPOKANE, CHIEF MEIDL, OFFICERS SCHWERING and
2 HENRY, and any other City defendants are liable under the doctrine of *respondeat superior*
3 for the actions of their employees and/or supervisory or municipality liability under 42 U.S.C.
4 § 1983.

5 9.41. As a proximate result of defendants' negligence, the Estate of Clovy Jaramillo
6 Jr. has suffered a loss of net accumulations due the Estate and incurred medical, funeral and
7 burial expenses.

8 9.42. Mr. Clovy Jaramillo endured intense physical pain and suffering, emotional
9 distress, and psychological fear during the course of the incident described above, up and until
10 the time of his death and the Estate of Clovy Jaramillo Jr. is therefore entitled to recover
11 damages in an amount to be determined at the trial of this action.

12 9.43. The Estate of Clovy Jaramillo Jr. has lost the present worth of the life of its
13 decedent, including his enjoyment of life, especially given the aggravating circumstances and
14 horrific injuries to his health attending the wrongful and unlawful acts that ultimately resulted
15 in his death. Such damages include the value of the loss of life itself, as well as economic
16 damages, impairment to lifetime earning capacity and loss of household services and the Estate
17 is entitled to recover damages against these Defendants in an amount to be determined at the
18 trial of this action.

19 9.44. Because the conduct of OFFICER SCHWERING, OFFICER HENRY, and
20 OFFICER BJORNSTAD involved recklessness, intentional misconduct, gross negligence,
21 willfulness and/or callous indifference to Mr. Clovy Jaramillo Jr.'s constitutional rights, and
22

1 because the conduct of these Defendants were motivated by malice, evil motive or intent, the
2 Estate of Clovy Jaramillo Jr. is entitled to recover awards of punitive and exemplary damages
3 against the Defendants under Plaintiff's § 1983 claims in an amount to be determined at the
4 trial of this action.


5 9.45. The Estate of Clovy Jaramillo Jr. is entitled to damages for these losses under
6 RCW 4.20, *et seq.*, in such amounts as will be proven at the time of trial, together with interest
7 thereon at the statutory rate, from the date of death or the date that the expenses were incurred.

8 WHEREFORE, plaintiff prays for judgment against the defendants as follows:

- 9 A. For all damages sustained by the plaintiff, including the Estate and all statutorily
10 recognized beneficiaries, in amounts proven at trial, including without
11 limitation, all past and future economic and non-economic damages allowed by
12 RCW 4.20 *et seq.* and the common law, including the loss of the accumulation
of income, incurred medical, funeral, and burial expenses, loss of consortium,
and the conscious pain, suffering, anxiety and fear of impending death
experienced by the decedent;
13 B. An award of compensatory damages, jointly and severally, as set forth above
and any other consequential, incidental and special damages, under any or all
of the causes of action, in an amount to be determined at trial against the named
Defendants;
14 C. An award of punitive damages against the Defendants.
15 D. Interest calculated at the maximum amount allowable by law, including pre-
and post-judgment interest;
16 E. An award of Plaintiffs' costs and reasonable attorneys' fees under 42 U.S.C. § 1988
and to the extent permitted by law;
17 F. A reasonable attorney's fee as allowed by law;
18 G. Costs and disbursements pursuant to statute; and
H. Other and further relief as this Court may deem just and equitable.


1 DATED this 6th day of October, 2023.

2 PHELPS AND ASSOCIATES, P.S.
3 Attorneys for Plaintiff

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5 DOUGLAS D. PHELPS, WSBA #22620
6 2903 N. Stout Road, Spokane, WA 99206
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1 STATE OF WASHINGTON)
)ss.
2 COUNTY OF SPOKANE)

3 I, CHRISTINA HERNANDEZ, after being first duly sworn upon oath, depose and
4 state as follows: that by nature of my appointment as the Administrator of the Estate of Clovy
Jaramillo Jr. by the Spokane County Superior Court, State of Washington, I am the Plaintiff
5 herein, that I have read the foregoing Complaint for Wrongful Death, know the contents
thereof and believe them to be true and correct.

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7 CHRISTINA HERNANDEZ, Administrator
8 of the Estate of Clovy Jaramillo Jr.
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